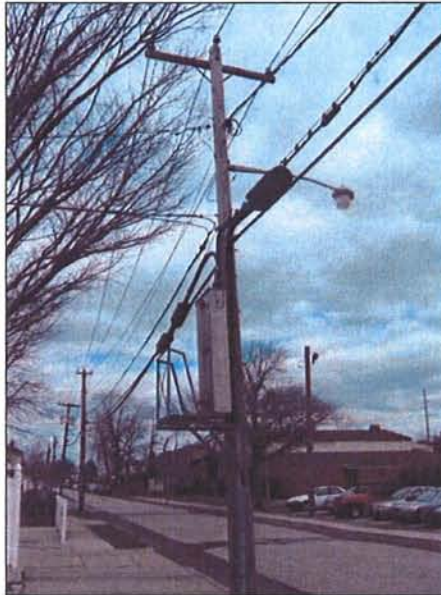


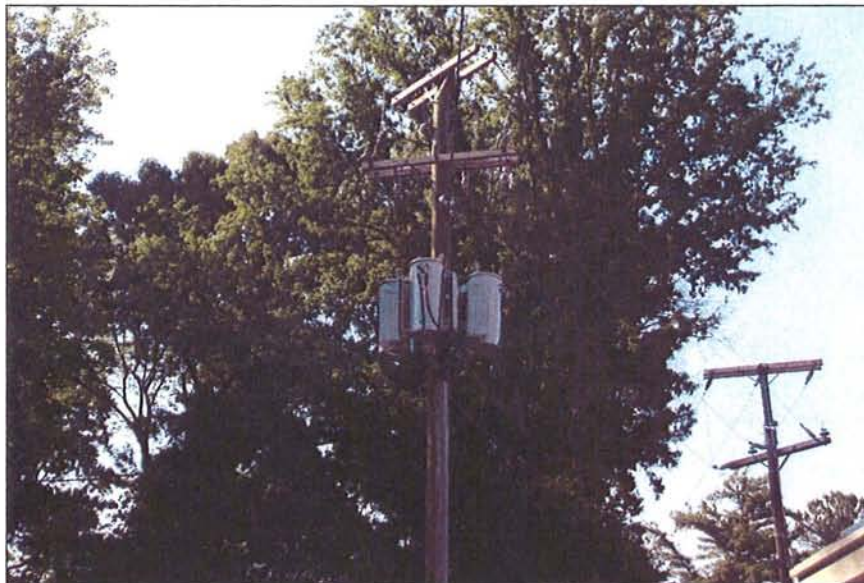
*Ex Parte* Presentation of



ILEC equipment box in Nassau County, NY



Electric company transformers in Arlington, VA



## NextG's Proposal for Access to Poles

- The Commission should promulgate a rule establishing a presumption allowing pole-top wireless attachments.
- The Commission has full authority to adopt such a rule. The Commission has repeatedly ruled that *it* – not utilities – is the final arbiter of safety and reliability issues.
- Such a rule will not compromise safety because it can be rebutted on a case-by-case basis if circumstances warrant.

## **Utilities Are Delaying Access to Poles for Wireless Attachments**

- Speed of deployment is crucial for DAS networks.
- Slow rolling is prevalent. Negotiating a wireless pole attachment agreement can take *years*.
- NextG is routinely referred to a utility's business development group, then back to the legal department.
- Utilities often claim that they do not have a wireless pole attachment agreement so one must be drafted.
- Lengthy make-ready delays are common.





## **NextG's Other Proposed Rules**

- Permit the installation of all-dielectric self-supporting (“ADSS”) fiber installations in the power space on poles
- Permit the installation of equipment boxes in unusable space on poles (already common)
- Permit attaching parties to use any qualified electrical workers to perform make-ready and to install wireless attachments (Commission has recognized in orders)
- Prohibit utilities from declaring street light poles and distribution poles with attachments above a certain voltage “off limits”
- Mandate performance of pre-construction surveys and completion of make-ready within 45 days




*Ex Parte* Presentation of



## **Attachment 1**

*Wireless Telecommunications Bureau Reminds Utility Pole Owners of Their Obligations to Provide Wireless Telecommunications Providers with Access to Utility Poles at Reasonable Rates*, Public Notice, 19 FCC Rcd. 24930 (Wireless Telecom. Bureau 2004)

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19 FCC Rcd 24930; 2004 FCC LEXIS 7253, \*

**WIRELESS TELECOMMUNICATIONS BUREAU REMINDS UTILITY POLE OWNERS OF  
THEIR OBLIGATIONS TO PROVIDE WIRELESS TELECOMMUNICATIONS PROVIDERS WITH  
ACCESS TO UTILITY POLES AT REASONABLE RATES**

[NO NUMBER IN ORIGINAL]

**RELEASE-NUMBER:** DA 04-4046

FEDERAL COMMUNICATIONS COMMISSION

19 FCC Rcd 24930; 2004 FCC LEXIS 7253

December 23, 2004, Released

**CORE TERMS:** wireless, pole, telecommunications, carriers, attachment, antenna, providers, space, Telecommunications Act, reliability, deployment, reiterate, placement

**ACTION:**

[\*1] PUBLIC NOTICE

**OPINION:**

The Wireless Telecommunications Bureau reiterates the obligation to provide wireless telecommunications providers with access to utility poles at reasonable rates pursuant to section 224 of the Communications Act, 47 U.S.C. § 224. In *Implementation of Section 703 (e) of the Telecommunications Act of 1996; Amendment of the Commission's Rule and Policies Governing Pole Attachments, Report and Order*, 13 FCC Rcd 6777, 6798-99 PP39-41 (1998), the Commission determined that wireless telecommunications providers are entitled to the benefits and protections of section 224 for the attachment to utility poles of antennas or antenna clusters and associated equipment. The Supreme Court affirmed this determination in *National Cable Telecommunications Ass'n v. Gulf Power Co.*, 534 U.S. 327 (2002). Providing wireless carriers with access to existing utility poles facilitates the deployment of cell sites to improve the coverage and reliability of their wireless networks in a cost-efficient and environmentally friendly manner. Such deployment will promote public safety, enable wireless carriers [\*2] to better provide telecommunications and broadband services, and increase competition and consumer welfare in these markets.

Recently, wireless carriers have alleged that they have been denied access to utility poles for the placement of wireless antennas on pole tops. While we take no position on the merits of any individual case, we take this opportunity to reiterate that the Commission declined, in *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Order on Reconsideration*, 14 FCC Rcd 18049, 18074 P72 (1999), to establish a presumption that space above what has traditionally been referred to as "communications


space" on a pole may be reserved for utility use only. Thus, the only recognized limits to access for antenna placement by wireless telecommunications carriers are those contained in the statute: "where there is insufficient capacity, or for reasons of safety, reliability, and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2).

In addition, section 224 and the **[\*3]** Commission's rules do not allow pole access fees to be levied against wireless carriers in addition to the statutory pole rental rate, which is based on the space occupied by the attachment and the number of attaching entities on the pole, together with reasonable make-ready fees. Such overcharges or denial of access for wireless pole attachments may have serious anticompetitive effects on telecommunications competition. Wireless telecommunications providers are encouraged to bring such matters to the attention of the Commission or the appropriate state regulatory authorities that have asserted jurisdiction over pole attachments.


For further information contact: Wireless Telecommunications Bureau, Aaron Goldschmidt at (202) 418-7146; Media Bureau, Katie Costello at (202) 418-2233; Enforcement Bureau, Jonathan Reel at (202) 418-7330.


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